

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Robert Derek Lurch, Jr.,

Plaintiff,

—v—

City of New York, et al.,

Defendants.

FEB 07 2020

19-cv-11253 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On February 6, 2020, Defendant Kimpton Muse Hotel filed a motion to dismiss the complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. However, since Plaintiff is proceeding *pro se*, he shall be given additional time to amend the complaint. Accordingly, it is hereby ORDERED that if Plaintiff intends to file an amended complaint, he shall do so by March 6, 2020. Plaintiff is hereby advised that any amended complaint will completely replace the original complaint. Accordingly, if Plaintiff files an amended complaint, it should include all of the information he believes is necessary to make a short, plain statement explaining why he is entitled to relief against each defendant. Plaintiff is on notice that declining to amend his pleadings to timely respond to a fully briefed argument in the Defendant's February 6 motion to dismiss may well constitute a waiver of the Plaintiff's right to use the amendment process to cure any defects that have been made apparent by the Defendant's briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility.").

If Plaintiff chooses to amend, Defendant may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that it intends to rely on the initially-filed motion to dismiss.

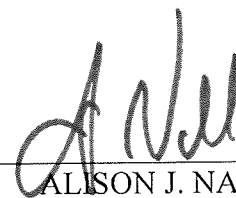
IT IS FURTHER ORDERED that if no amended complaint is filed, Plaintiff shall serve his opposition to Defendant's motion to dismiss by March 6, 2020. Defendant's reply, if any, shall be served by March 20, 2020. At the time any reply is served, Defendant shall supply Chambers with a courtesy copy of all motion papers by mailing or delivering them to the United States Courthouse, 40 Foley Square, New York, New York.

IT IS FURTHER ORDERED that either party may request an extension of the briefing schedule for the motion. A deadline will be extended if the party demonstrates that its pursuit of the action has been diligent and that there is a good reason for extending the deadline.

Chambers will mail a copy of this Order to Plaintiff and that mailing will be noted on the docket.

SO ORDERED.

Dated: February 7, 2020  
New York, New York

A handwritten signature in dark ink, appearing to read 'Alison J. Nathan', is written over a horizontal line.

ALISON J. NATHAN  
United States District Judge